



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNSD, MND, MNDC, FF

### Introduction

This hearing was convened as a result of the landlord's application for dispute resolution under the Residential Tenancy Act ("Act"). The landlord applied for authority to keep all or part of the tenants' security deposit, a monetary order for money owed or compensation for damage or loss and alleged damage to the rental unit, and for recovery of the filing fee paid for this application.

The landlord and the listed respondents/tenants attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

Thereafter all parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### *Preliminary and procedural matters-*

One of the listed respondents, "AS", sent in documentary evidence stating that he was not a tenant and did not sign the tenancy agreement or form K notice of strata responsibility. AS submitted further that he only rented a room from the other listed tenants, "RB" and "ER". The landlord agreed that this was the case, and I have therefore amended the landlord's application and removed AS as a tenant and any further consideration in this matter.

Additionally, ER submitted that she vacated the rental unit on October 1, 2013, and did not live there from that point onward. The landlord submitted she became aware that ER had vacated the rental unit in January 2014, and that ER has been very responsive

in attempting to resolve the issues of this tenancy. As will be later referenced, as the tenancy continued after ER vacated, and without objection from the landlord, I have further amended the landlord's application and removed ER as a tenant and from any further consideration in this matter. ER did agree that she forfeited her rights to the security deposit when she vacated the rental unit.

### Issue(s) to be Decided

Is the landlord entitled to retain the tenants' security deposit, further monetary compensation, and to recovery of the filing fee paid for this application?

### Background and Evidence

The landlord's evidence shows that this tenancy began on June 1, 2013, that tenant RB vacated the rental unit by May 31, 2014, monthly rent was \$1400.00, and that the tenants paid a security deposit of \$700.00 on or about May 15, 2013.

The landlord's monetary claim is as follows:

Repairs to the rental unit	\$1835.40
Supply of and installation of a door	\$843.15
Cleaning the rental unit	\$546.84
Reduced rent, next tenant	\$200.00
Emergency cleaning, lock	\$81.57
Door repairs	\$74.87
Filing fee for this application	\$50.00

The landlord's relevant evidence included, but was not limited to, the written tenancy agreement, photographs of the rental unit, estimates for cleaning, a written statement from the next tenant, receipts from a home improvement store, and written submissions of the landlord and a witness.

The landlord confirmed there was not a move-in condition inspection report.

In support of her application, the landlord provided the following evidence:

#### *Repairs to the rental unit-*

The landlord submitted that the tenant caused damage to the rental unit which went beyond reasonable wear and tear. In explanation, the landlord submitted that the tenant's dog caused damage to the front door and surrounding wall and moulding, other walls and moulding by its chewing and scratching, all which required repairs. Additionally, the landlord submitted that holes from numerous nails required and were repaired. The landlord submitted further that there was damage to the hinge to the kitchen cabinet door and to the kitchen drawer.

The landlord confirmed that the work has been done, but not paid for as of the time of the hearing.

In response, the tenant submitted that the nail holes were not his responsibility and that the rental unit needed to be painted anyway, further pointing out that the landlord's sister provided the invoice for repairs.

*Supply of and installation of a door-*

The landlord submitted that the front door would need to be replaced due to damage caused by the tenant's dog's scratching and biting.

The landlord confirmed that the door has not yet been replaced.

The tenant agreed to the costs of the door, as long as it was actually replaced.

*Cleaning the rental unit-*

The landlord submitted the rental unit required hours of cleaning after this tenancy ended, due to a dirty refrigerator, stove, dishwasher, cabinets, sinks, shower stall, floors, and patio. The landlord referred to her photographic evidence.

The landlord submitted that she and family members performed the cleaning, as well as the next tenant when she moved in.

As compensation, the landlord submitted 4 quotes from cleaning companies, and used the average of the 4.

In response, the tenant submitted that the amount of cleaning claimed by the landlord was excessive for a 2 bedroom apartment, and that the rental unit was left reasonably clean.

*Reduced rent, next tenant-*

The landlord submitted that the next tenant had to clean the rental unit for 4 hours, as it was not suitable for her move-in on the scheduled day. The landlord agreed to a rent reduction of \$200.00 due to the condition of the rental unit, according to the landlord.

In response, the tenant submitted that he was not responsible for a rent reduction for the next tenant.

*Emergency cleaning, lock-*

The landlord submitted that she was required to purchase extra cleaning supplies due to the condition of the rental unit at the end of the tenancy, and that the tenant did not return all keys.

In response, the tenant submitted the locks did not require changing and that it was the landlord's choice to purchase the cleaning supplies.

*Door repairs-*

The landlord submitted that she incurred costs for door repair supplies and home repair.

Analysis

In a claim for damage or loss under the Residential Tenancy Act, Residential Tenancy Branch Regulations or tenancy agreement, the claiming party, the landlord in this case, has to prove, with a balance of probabilities, four different elements, as provided for in sections 7 and 67 of the Act:

**First**, proof that the damage or loss exists, **second**, that the damage or loss occurred due to the actions or neglect of the respondent in violation of the Act or agreement, **third**, verification of the actual loss or damage claimed and **fourth**, proof that the party took reasonable measures to minimize their loss.

Where the claiming party has not met each of the four elements, the burden of proof has not been met and the claim fails.

It is important to note that in this case, the landlord has not submitted a move-in or move-out condition inspection report, nor was there proof that there was an inspection of the rental unit with the tenant at the beginning or end of the tenancy, as is the obligation of the landlord pursuant to sections 23 and 35 of the Act.

*Repairs to the rental unit-*

With respect to the claimed repairs, although there was no record of the condition of the rental unit at the beginning of the tenancy, as the landlord failed to provide a move-in condition inspection report, I have reviewed the photographic evidence of the landlord and accept that the tenant's dog did damage the front door, walls, and moulding. I also accept that there was damage to the kitchen drawer and hinge to the damaged kitchen door.

With respect to the nail holes, I was less convinced by the landlord's photographic evidence. Under Residential Tenancy Branch Policy Guideline #1, a tenant is allowed to hang pictures and the landlord may set rules as to how this can be done.

In the case before me, I find the landlord did not present evidence that the tenants were provided rules in hanging their pictures. Additionally, there was no proof and I could not determine by the photographs that the number of nail holes was excessive. Due to this, I find that the landlord has insufficient evidence that the tenants were responsible for the nail holes.

I additionally find that the landlord submitted insufficient evidence that the entire rental unit required 1 coat of paint due to tenant responsibility, as set out in the statement, or invoice provided.

In reviewing the invoice, this document provided a general statement, not an itemized listing as to the cost of each repair. I therefore was unable to assess the costs attributable to the damage by the tenant's dog or to the kitchen fixtures. Taken as a whole, and in consideration of the landlord's acknowledgement that she has not incurred an expense as of the day of the hearing, I find a reasonable amount to award the landlord is \$600.00.

*Supply of and installation of a door-*

As the landlord has not replaced the door, and in fact, has actually repaired the door, I find that she has not suffered a loss as of the day of the hearing, and I therefore dismiss her claim for compensation for a new door.

*Cleaning the rental unit-*

Section 37 of the *Act* requires a tenant who is vacating a rental unit to leave the unit reasonably clean, and undamaged except for reasonable wear and tear, and give the landlord all keys or other means of access that are in the possession and control of the tenant and that allow access to and within the residential property.

In reviewing the landlord's photographic evidence, I find the landlord submitted sufficient evidence that the tenant failed to leave the rental unit reasonably clean and did require cleaning by the landlord. In particular, I find the kitchen appliances and shower were not properly cleaned.

As to the rest of the rental unit, I was less convinced that the condition required as many hours of cleaning with multiple people as claimed by the landlord and I did not have a move-out condition inspection report to review and consider, as was the landlord's obligation under section 35 of the *Act*.

As the landlord has not submitted proof of an actual loss, but in consideration of my finding that the landlord did have to clean the rental unit, I find a reasonable amount to be \$350.00.

*Reduced rent, next tenant-*

I find the landlord failed to provide sufficient evidence that the succeeding tenant paid a reduction of \$200.00 due to the condition of the rental unit as left by the tenant. In reviewing the statement of that tenant, I took note that this tenant stated she requested a reduction in rent, but I was not supplied evidence that this was the case.

I therefore find that the landlord submitted insufficient evidence that due to the tenant's breach of the Act or tenancy agreement she suffered a loss of \$200.00 and dismiss this claim.

*Emergency cleaning, lock-*

In reviewing the landlord's receipt, I find the landlord has not presented evidence such that she is entitled to reimbursement from the tenant for a garden hose, mop, stain remover, or drain opener. In particular, I find a mop and hose are items a landlord may normally possess.

I do find that the landlord is entitled to reimbursement for a lock replacement, as previously mentioned, I accept that the tenant failed to return all keys to the rental unit. I therefore grant the landlord the amount of \$25.00, as reflected in the receipt.

*Door repairs-*

As previously mentioned, I accept that the tenant's dog damaged the front door and therefore find that the landlord has submitted sufficient evidence that she is entitled to compensation for the expenses in repair of the door. I therefore grant the landlord's claim of \$74.87, as reflected in the receipt.

*Filing fee-*

I grant the landlord recovery of her filing fee of \$50.00 paid for her application.

Due to the above, I find the landlord is entitled to a total monetary award of \$1099.87, comprised of the \$600.00 for repairs to the rental unit, \$350.00 for cleaning the rental unit, \$25.00 for a lock replacement, \$74.87 for costs of material for the door repair, and \$50.00 for recovery of the filing fee paid for this application.

At the landlord's request, I direct her to retain the tenant's security deposit of \$700.00 in partial satisfaction of her monetary award of \$1099.87 and I grant the landlord a final, legally binding monetary order pursuant to section 67 of the Act for the balance due in the amount of \$399.87, which is enclosed with the landlord's Decision.

Should the tenant fail to pay the landlord this amount without delay after being served the order, the monetary order may be filed in the Provincial Court of British Columbia

(Small Claims) for enforcement as an Order of that Court. The tenant is advised that costs of such enforcement are recoverable from the tenant.

Conclusion

The landlord's application for monetary compensation is granted in part as she has been granted a monetary award of \$1099.87, and directed to retain the tenant's security deposit in partial satisfaction.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 10, 2015

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Residential Tenancy Branch

